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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,555	08/28/2003	Michael Wayne Brown	AUS920010818US2	7605
34533 7590 11/12/2008 INTERNATIONAL CORP (BLI) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469				
EXAMINER				
ELAHEE, MD S				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
11/12/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/650,555

**Applicant(s)**

BROWN ET AL.

**Examiner**

MD S. ELAHEE

**Art Unit**

2614

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4-9, 12, 13, 15-22, 24, 25, 27-30 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-9, 12, 13, 15-22, 24, 25 and 27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an amendment filed on 08/13/2008. Claims 1, 2, 4-9, 12, 13, 15-22, 24, 25, 27-30 and 36 are pending. Claims 10 and 33-35 have been previously cancelled. Claims 3, 14, 26, 31 and 32 have been already cancelled. Claims 11 and 23 have been currently cancelled.

### ***Response to Arguments***

2. Applicant's arguments filed in the 08/13/2008 Remarks have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 2, 4-9, 12, 13, 15-22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 12, the phrase “said caller identity is transmittable” is indefinite because it is unclear whether said caller identity is transmitted to the destination or said caller identity is not transmitted to the destination.

Since, claims 2, 4-9, 12, 13, 15-22 are dependent claims these claims are also rejected under 35 U.S.C. 112, second paragraph.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 24, 25 and 27-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Independent claim 24 recites, in pertinent part, a computer program product comprising a recording medium with means recorded on the medium to perform the recited functions. The Specification indicates that “computer readable media include recordable-type media, such as a floppy disk, a hard disk drive, a RAM, CD-ROMs, DVD-ROMs, and *transmission-type media, such as digital and analog communication links’, wired or wireless communications links’ using*

*transmission forms, such as, for example, radio frequency and light wave transmissions"* (see page 29, lines 25-28 of the original Spec.; emphasis added). Thus, reading independent claim 24 in light of the Specification, the recited "computer readable medium" of these claims encompasses a carrier medium that conveys a signal.

Signals are not patentable subject matter under § 101.

In any event, *a carrier medium that conveys* a signal (e.g., a carrier wave) is distinguished from a tangible medium that *stores* a signal (e.g., a disk, memory, etc.), particularly with respect to the functionality of independent claim 24. This claim, in effect, call for means to interact with the computer to perform specific functions. It is our view that the computer cannot perform the claimed functions while the instructions are within signals conveyed by a carrier wave.

Specifically, information sent by a carrier wave conveying signals is transmitted by modulating the carrier wave or signal with the information. This information must be received and demodulated before the information is available for use. Thus, the information, *while on the carrier wave or signal*, is unavailable to the computer for performing the functions recited in independent claim 24. It is also likely that all the information necessary to perform the functions of claim 24 never exists within the carrier wave or signal at any one time. In other words, it is typical for information that is transmitted by signals conveyed by carrier waves to begin to be received at the receiver before all the information is transmitted. Therefore, it appears that program instructions for carrying out the claimed invention cannot exist while the information is being transmitted via signals conveyed by a carrier wave.

Furthermore, while the exemplary "transmission-type media" disclosed on page 29 of the Specification certainly implicates physical carriers of information, the disclosure hardly limits the carriers to these examples. Rather, nothing in the passage precludes the use of any tangible means of information carriage.

Thus, when read in light of the Specification, independent claim 24 includes both statutory subject matter (signals stored on a tangible medium) and non-statutory subject matter (signals conveyed by a carrier medium). According to USPTO guidelines, however, such claims must be amended to recite solely statutory subject matter.

For the foregoing reasons, independent claim 24 or the claims dependent thereon do not recite statutory subject matter under 35 U.S.C 101.

#### ***Reasons for Allowance***

7. Claim 36 is allowed. Claims 1, 2, 4-9, 12, 13, 15-22 will be allowed after overcoming the rejections under 35 U.S.C. 112, second paragraph. Claims 24, 25 and 27-30 will be allowed after overcoming the rejections under 35 U.S.C. 101.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 36, the prior art Farris, Velius and Manto after having all the limitation of claim fails to teach authenticating a caller identity associated with said voice utterance at said origin device by matching the accessed voice imprint, wherein said caller identity comprises a caller name, caller location, a subject of said call, and a device identification which authenticates

the caller. There is no suggestion in the prior art references to combine the prior art references with any other prior art reference to teach the claimed limitation.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MD S. ELAHEE whose telephone number is (571)272-7536. The examiner can normally be reached on Mon to Fri from 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MD S ELAHEE/  
MD SHAFIUL ALAM ELAHEE  
Examiner  
Art Unit 2614  
November 11, 2008